

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MICHELLE DOREEN BINGAMAN,	:	CIVIL ACTION NO. 1:19-CV-524
	:	
Plaintiff	:	(Chief Judge Conner)
	:	
v.	:	
	:	
ANDREW M. SAUL,	:	
Commissioner of Social Security,	:	
	:	
Defendant	:	

ORDER

AND NOW, this 25th day of March, 2020, upon consideration of the report (Doc. 16) of Chief Magistrate Judge Susan E. Schwab, recommending that the court vacate the decision of the Commissioner of Social Security (“Commissioner”) and remand for rehearing before a new, constitutionally appointed administrative law judge based on the undersigned’s decisions in Bizarre v. Berryhill, 364 F. Supp. 3d 418 (M.D. Pa. 2019) (Conner, C.J.), and Cirko v. Berryhill, No. 1:17-CV-680, 2019 WL 1014195 (M.D. Pa. Mar. 4, 2019) (Conner, C.J.), and the court noting that the Commissioner filed objections (Doc. 23) to the report, see FED. R. CIV. P. 72(b), and that plaintiff Michelle Doreen Bingaman has filed a response (Doc. 24) thereto, and following *de novo* review of the contested portions of the report, see E.E.O.C. v. City of Long Branch, 866 F.3d 93, 99 (3d Cir. 2017) (quoting 28 U.S.C. § 636(b)(1)), and affording “reasoned consideration” to the uncontested portions, see id. (quoting Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987)), the court being in agreement with Judge Schwab that this matter be remanded in accordance with Bizarre and Cirko, which decisions were recently affirmed by the Third Circuit Court of Appeals,

see Cirko v. Comm’r of Soc. Sec., 948 F.3d 148 (3d Cir. 2020), petition for reh’g filed (Mar. 9, 2020), and the court thus finding Judge Schwab’s analysis to be thorough, well-reasoned, and fully supported by the record and decisional law, and further finding the Commissioner’s objections to be without merit and squarely addressed by the report and the Third Circuit’s precedential decision in Cirko, it is hereby ORDERED that:

1. The report (Doc. 16) of Chief Magistrate Judge Schwab is ADOPTED.
2. The Clerk of Court is DIRECTED to enter judgment in favor of Bingaman and against the Commissioner as set forth in the following paragraph.
3. The Commissioner’s decision is VACATED and this matter is REMANDED to the Commissioner with instructions to conduct a new hearing and issue a new decision in accordance with this order. The new hearing shall be conducted by a different administrative law judge who has been properly appointed in accordance with the Appointments Clause of the United States Constitution.
4. The Clerk of Court shall thereafter CLOSE this case.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania